

U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SANDRA L. FERGUSON, ) No.  
 )  
Plaintiff, ) COMPLAINT FOR DAMAGES AND OTHER  
 ) RELIEF  
vs. )  
 )  
BRIAN J. WAID AND THE MARITAL )  
COMMUNITY THEREOF, )  
 )  
Defendant. )

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**I. INTRODUCTION**

1. This action against the defendant, Brian Waid, is based on 42 U.S.C. §1983. Under Section 1983, persons are liable if they act under color of law to deprive individuals of "any rights, privileges, or immunities secured by the Constitution and laws" of the United States. 42 U.S.C. §1983.

2. For an individual to act under color of law does not require that he be an officer of the state. It is enough that he is a willful participant in joint activity with the state or its agents to deprive the plaintiff of her

1 rights, privileges, or immunities. "The involvement of a  
2 state official in a such conspiracy plainly provides the  
3 state action essential to show a direct violation of  
4 petitioner's Fourteenth Amendment equal protection  
5 rights, whether or not the actions of the [state  
6 officials] were officially authorized or lawful."

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8 Adickes v. S.H. Kress & Co., 398 U.S. 144, 152 (1970).

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10 3. The Washington State Bar Association ("WSBA") is a state  
11 agency created by the State Bar Act of 1933, RCW  
12 2.48.010, which compels attorneys to be dues-paying  
13 members in order to maintain their licenses and right to  
14 practice law in Washington. All members of the WSBA are  
15 subject to the authority of the WSBA-controlled  
16 Washington Lawyer Discipline System ("the system"), whose  
17 officials have unfettered discretion to subject attorneys  
18 to investigation and discipline, up to and including  
19 permanent disbarment. In addition to acting as a  
20 regulator of attorney conduct, the WSBA is supposed to be  
21 a professional association (albeit, compulsory) which  
22 represents the interests of its members, regardless of  
23 race, gender, national origin, disability, or other  
24 protected classifications under law. But, in practice or  
25 under custom or tradition, the WSBA is governed by white  
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1 males members is rife with cronyism, which results in  
2 disparate treatment of female and minority members of the  
3 compulsory, dual regulatory agency/professional  
4 association.  
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6 4. The plaintiff, Sandra Ferguson ("Ferguson"), female and  
7 Native American.<sup>1</sup> Ferguson is an attorney and a WSBA  
8 member licensed to practice law in Washington State. From  
9 2005 to 2011, and again in 2015, and from 2016 to the  
10 present, she has been subjected and continues to be  
11 subjected to disparate treatment, deprivation of her  
12 rights to due process, equal protection, the exercise of  
13 free speech, and equal employment opportunities, because  
14 of her gender, race, and speech in opposition to the  
15 WSBA-controlled lawyer discipline system.  
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18 5. The basis for the present action is that Defendant Waid,  
19 is engaged in unlawful joint activity with WSBA officials  
20 to deprive Ferguson of her liberty and property interests  
21 to pursue her profession, her right to the exercise of  
22 free speech, and her right to equal employment  
23 opportunities, regardless of gender and/or race.  
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28 <sup>1</sup> Ferguson is an enrolled member of the Tlingit-Haida Tribes of Alaska,  
a federally-recognized tribe.

1 6. The defendant, Brian Waid ("Waid" or "Defendant"), is an  
2 attorney and WSBA member licensed to practice law in  
3 Washington. Waid is a white male.

4  
5 7. In early 2011, Ferguson consulted and retained the  
6 defendant, Waid, to represent her in a contract dispute  
7 matter. Due to Waid's unethical conduct (inter alia),  
8 Ferguson suffered grievous harm to her financial  
9 position, her professional standing reputation in the  
10 community, her mental and emotional health, and due to  
11 Waid's joint activity with WSBA officials, this harm  
12 continues.

13  
14 **Waid's Pattern of Ethics Violations.**

15 8. **Sandra Ferguson and The Ferguson Firm, PLLC.** In  
16 connection with his representation of Ferguson from April  
17 2011 to February 10, 2012 and thereafter, Waid committed  
18 malpractice, fraud, engaged in false and deceptive  
19 business practices in violation of Washington's Consumer  
20 Protection Act ("CPA"), RCW §19.86, and breached his  
21 fiduciary duty to his client, Ferguson. This gave rise  
22 to Ferguson's lawsuit against him, originally filed on  
23 October 24, 2014, then re-filed on December 1, 2015.

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26 9. **Angela Oppe.** Ferguson discovered that Waid engaged in  
27 similar fraudulent and unethical practices which harmed  
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1 other former (female) clients, especially, a female  
2 client named Angela Oppe. Due to Ferguson's discovery,  
3 Ms. Oppe retained counsel and filed a civil suit against  
4 Waid for malpractice, breach of fiduciary duty, false and  
5 deceptive business practices).

7 10. **Carole LaRoche**. During discovery proceedings in  
8 Ferguson's 2014 action against Waid, the information  
9 about Carole LaRoche's complaints against Waid were  
10 withheld by Waid, despite discovery requests which called  
11 for production of this information. Waid falsely  
12 testified during his deposition to avoid disclosure of  
13 Ms. LaRoche's complaints against him. Despite Waid's  
14 discovery abuse, Ferguson learned the existence of this  
15 other (female) former client of Waid's, Carole LaRoche,  
16 who lodged a bar grievance against Waid, which was  
17 dismissed by the WSBA, and then filed a civil suit, pro  
18 se, against Waid.

21 11. **The Foulons**. In addition to Angela Oppe and  
22 Carole LaRoche, Ferguson learned of another client of  
23 Waid's, Bob Foulon and his wife. The marital community  
24 of the Foulons was harmed by Waid's and his co-counsel's  
25 breach of fiduciary duty to their clients (e.g., breach  
26 of the duty to communicate).

12. On October 24, 2014, Ferguson filed a lawsuit against Waid for his acts, errors and omissions representing Ms. Ferguson and her law firm from April 2011 to February 10, 2012. Waid's multiple motions for summary judgment dismissal of that lawsuit were repeatedly denied by the trial court.

13. Ferguson's civil case against Waid was extensively litigated from October 2014 to December 1, 2015, when the trial court granted Waid's motion for "non-suit" dismissal under CR 41. Ferguson's remaining claims were dismissed without prejudice on December 1, 2015, and the same day, Ferguson re-filed her claims under a new cause number. Ferguson's Complaint in the 2015 action is attached and incorporated by reference herein as Exhibit A.

14. However, Ferguson's 2015 lawsuit against Waid is stayed pending the resolution of a number of issues on appeal from the 2014 case. Ferguson continues to be denied her right to a jury trial on the merits, while being required to appeal orders entered in the first-filed (2014) action, although there has been no final adjudication of her claims against Waid. The compelled

1 appeal is pending, and the second-filed action at the  
2 trial court level remains stayed at this time.

3 15. **Anonymous Submission to WSBA–December 1, 2015.**

4 As part of the basis for this lawsuit, Ferguson alleges  
5 that on December 1, 2015, Waid (or another person acting  
6 on Waid's behalf) made an anonymous submission to the  
7 WSBA's Office of Disciplinary Counsel, which caused her  
8 to be targeted for investigation and potential  
9 disciplinary action. As a result of this anonymous  
10 submission, the WSBA launched an investigation of  
11 Ferguson and her "capacity" to continue to practice law.

14 16. **Waid's Agreement with WSBA Officials.** In early  
15 2016, during the investigation of Ferguson's "capacity"  
16 to practice law, Waid ("Waid") became a willful  
17 participant in joint activity with officials of the  
18 Washington State Bar Association ("WSBA") to deprive her  
19 of her constitutional and legal rights, when he and WSBA  
20 officials reached an understanding that he would file a  
21 meritless grievance against Ferguson, giving WSBA  
22 officials a pretext to investigate and pursue  
23 disciplinary action against Ferguson.

26 17. **Waid's Grievance Against Ferguson–March 1, 2016.**

27 On March 1, 2016, Waid filed the proposed baseless  
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1 grievance against Ferguson. In subsequent correspondence  
2 with WSBA officials over many months, Waid repeatedly  
3 urged the WSBA to immediately proceed with an  
4 investigation of Ferguson, despite Ferguson's pending  
5 litigation against him, and to disbar Ferguson before she  
6 could proceed to a trial on the merits. Waid complained  
7 to WSBA officials that Ferguson published negative  
8 reviews of him as her lawyer on "AVVO", impliedly asking  
9 the WSBA to prevent or punish Ferguson for her exercise  
10 of the right to free speech, warning the public about  
11 Waid's fraudulent practices as an attorney.  
12

14 18. The WSBA commenced an investigation of Ferguson  
15 based on Waid's March 1, 2016 grievance. In subsequent  
16 correspondence with WSBA officials, Ferguson made  
17 multiple requests that Waid's grievance be dismissed  
18 because it was an abuse of the disciplinary process, and  
19 was a meritless grievance aimed at preventing her from  
20 moving forward, unmolested, with her civil suit against  
21 him. In her letters to the WSBA, Ferguson asked that,  
22 alternative to immediate dismissal, the WSBA's  
23 investigation at least be deferred until the final  
24 adjudication of her civil suit against Waid. The WSBA  
25 repeatedly failed to act on Ferguson's requests and  
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thereby, denied Ferguson's requests, while the investigation of Ferguson, at Waid's behest, continued.

19. In early 2017, Ferguson joined a putative class action filed against the WSBA. Waid was not a party or defendant in that action. The attorney of record subsequently abandoned the class action and the case was shortly thereafter, dismissed on Defendants' motion for dismissal on the pleadings brought under Rule 12(b)(6). The case went up on appeal.

20. Ferguson discharged her attorney and appeared pro se. Ferguson sought in the district court, but was denied the opportunity to amend the complaint to allege additional facts and join additional defendants. Therefore, she filed a notice of appeal. Ferguson's appeal is pending in the Ninth Circuit Court of Appeal.

21. On May 11, 2017, Ferguson lodged a formal bar grievance against Waid. Her grievance concerned the ethics violations Waid committed as her attorney in the contract dispute matter. In addition, Ferguson's grievance against Waid concerned his similar ethics violations committed as the attorney for Angela Oppe. Ferguson discovered that Waid defrauded Oppe and assisted Oppe to find legal counsel. Therefore, she was

1 intimately familiar with Waid's ethics violations  
2 committed while representing Oppe. Like Ferguson, Oppe  
3 filed a civil lawsuit against Waid. Oppe's lawsuit was  
4 settled before trial.  
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6 22. Waid responded to Ferguson's grievance by asking  
7 the WSBA to defer the investigation of Ferguson's  
8 grievance until the final adjudication of Ferguson's  
9 pending lawsuit against him. The WSBA granted Waid's  
10 request, and promptly notified Ferguson and Waid that it  
11 was deferring the investigation of *both* grievances. This  
12 was supposed to present the appearance of equal treatment  
13 of both WSBA members. However, it was in fact, disparate  
14 treatment of two similarly-situated WSBA members (one  
15 female and minority, the other white and male). By this  
16 time, Ferguson had been the target of a WSBA  
17 investigation for 15 months, interfering with her right  
18 to practice her profession unmolested. The investigation  
19 had continued for 15 months, despite the fact that Waid's  
20 grievance lacked merit, and despite the WSBA's knowledge  
21 of the pending litigation between Ferguson and Waid, the  
22 evidence of Waid's pattern of serious ethics violations,  
23 and Ferguson's multiple requests that the investigation  
24 be deferred due to that litigation, all of which were  
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1 denied by WSBA officials, until Waid requested a deferral  
2 of the investigation against him.

3 23. Ferguson appealed the WSBA's decisions to a WSBA  
4 review committee, asking for the dismissal of Waid's  
5 grievance and for the investigation of her grievance  
6 against Waid to proceed, based on Waid's evident pattern  
7 of ethics violations and endangerment to the public from  
8 delaying the investigation. Ferguson's appeal to the  
9 WSBA was denied. Therefore, both members' grievances are  
10 now deferred.  
11

12 24. In Waid's letters to the WSBA, written after he  
13 filed the March 1, 2016 grievance, Waid repeatedly  
14 discusses the fact that he and WSBA officials came to an  
15 understanding that he would file a bar grievance against  
16 Ferguson. Waid states in his letters (inter alia) that he  
17 did not *initiate* the grievance, but merely "went along"  
18 with the WSBA's idea that he file a grievance against  
19 Ferguson. Thus, Waid's own written statements are  
20 admissions which show that is potentially liable under  
21 Section 1983 for his willful participation in joint  
22 activity with WSBA officials, for depriving Ferguson of  
23 her of liberty and property interests to pursue her  
24 chosen profession, in violation of her First Amendment  
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1 right to free speech, her right to due process and equal  
2 protection secured by the U.S. Constitution, and in  
3 violation of her right to equal employment opportunities  
4 regardless of gender or race, protected by Title VII of  
5 the Civil Rights Act of 1964, as amended. (42 U.S.C.  
6 §2000e, et seq.)

## 8 II. JURISDICTION AND VENUE

9 25. This case arises under the U.S. Constitution and  
10 laws of the United States. This Court has jurisdiction  
11 under 28 U.S.C. §1331.

12 26. This is an action arising under 42 U.S.C. §1983.  
13 The Court has jurisdiction under 28 U.S.C. §  
14 1343(a)(3)(4).

15 27. This is also a case or controversy within this  
16 Court's jurisdiction under 28 U.S.C. §§ 2201 and 2202  
17 because Plaintiff seeks declaratory and injunctive relief  
18 pursuant to Fed. R. Civ. P. 65.

19 28. Venue is proper because the plaintiff and  
20 defendant reside in this judicial district "in which a  
21 substantial part of the events or actions giving rise to  
22 the claims occurred." 28 U.S.C. §§1391(b), 124(d)(1).

## 23 III. PARTIES

29. Plaintiff, Sandra L. Ferguson, is a citizen of the United States. She resides in Washington.

30. Defendant, Brian Waid, is a married person. Waid is a citizen of the United States. The marital community of Waid resides in Washington.

#### IV. FACTUAL ALLEGATIONS

31. The attorney, Sandra Ferguson, is female and Native American.<sup>2</sup> Ferguson has been practicing law for 24 years. In 24 years, she has been a member of the Oregon State Bar, the District of Columbia Bar, and the Washington State Bar.

32. After practicing law for a number of years in Washington, D.C. as an associate at a private law firm representing Indian tribes and tribal organizations, Ferguson was offered and accepted a position as in-house counsel for the Quinault Indian Nation, a sovereign government over the reservation located within Washington State borders. Accordingly, Ferguson sought and gained admission to the Washington State Bar at the end of 1997. She had no disciplinary history or record in any

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<sup>2</sup> Ferguson is an enrolled member of the Tlingit-Haida Tribes of Alaska, a federally-recognized tribe.

jurisdiction when she sought and gained admission to the Washington State Bar.

33. In 24 years of practice, only one client (or member of the public) has ever filed a grievance against her. That individual's grievance was filed with the WSBA, because Ferguson declined to advance costs of litigation to proceed with a lawsuit on behalf of the grievant. Ferguson filed a preliminary written response to the grievance, and the grievance was dismissed by the WSBA.

34. In contrast, there have been three separate occasions when the WSBA has acted on grievances filed against Ferguson by similarly-situated white male attorneys who are members of the WSBA. These attorneys have filed meritless grievances against Ferguson which the WSBA has used as pretext to target her for investigation and discipline.

35. The first time a similarly-situated white male WSBA member filed a grievance against Ferguson was in April 2005, when Ferguson's opposing counsel, Doug Owens ("Owens"), filed a grievance alleging that she obtained emergency injunctive relief by ex parte motion for her clients, without prior notice. Ferguson did not dispute

1           these basic facts, but maintained that her motion was  
2           permitted by law (i.e., CR 65(b)).

3           36.           In May 2005, Owens admitted in a sworn  
4           declaration that he engaged in improper ex parte  
5           communications with the judge in their clients' case. In  
6           addition, Ferguson obtained a hearing transcript and  
7           provided it to the WSBA, which proved that Owens made  
8           false or misleading representations to the trial court  
9           judge in their clients' case, during a hearing which  
10          occurred prior to Ferguson's appearance in their clients'  
11          case. Owens' proven lack of candor toward the tribunal  
12          caused the need for Ferguson's subsequent emergency  
13          motion of which Owens complained in his grievance. Based  
14          on this evidence, Ferguson filed a bar grievance against  
15          Owens.

16          37.           With respect to Ferguson's grievance against  
17          Owens, the WSBA investigator/prosecutor, attempted to  
18          immediately dismiss it, without any investigation.  
19          However, Ferguson appealed and a WSBA review committee  
20          ordered the investigator (and prosecutor) in the  
21          proceeding against Ferguson, to "further investigate"  
22          Owens' conduct with regard to his ex parte communications  
23          with the judge and his lack of candor toward the tribunal

1 during the hearing, but the WSBA investigator did not  
2 comply with this order to "further investigate" Owens'  
3 conduct, while continuing to aggressively pursue the  
4 meritless claim against Ferguson, well beyond the scope  
5 of the allegations in Owens' grievance. The WSBA  
6 investigator/prosecutor then submitted a false,  
7 unsupported conclusion to the WSBA, in support of the  
8 recommendation that charges be filed against Ferguson,  
9 and the WSBA proceed to hearing on the charges against  
10 Ferguson.  
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13 38. Although the WSBA was not required to meet its  
14 burden of proof, Ferguson's hearing before a WSBA  
15 representative (a "hearing officer"), resulted in a 30-  
16 day suspension by the WSBA representative. On automatic  
17 review, the WSBA Disciplinary Board increased the  
18 suspension to 90 days. Ferguson appealed both decisions  
19 to the Washington Supreme Court. Before the Supreme  
20 Court, she and her lawyer warned the WSBA that a CR 11  
21 motion would be filed. In response, they received a  
22 threat from the WSBA's counsel, Bob Weldon. The WSBA's  
23 response was not to deny the CR 11 violation alleged by  
24 Ferguson, nor to withdraw, or correct the false  
25 pleadings, but instead, to threaten Ferguson and her  
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1 attorney if she did not withdraw the CR 11 claim.  
2 Ferguson did not withdraw the claim, but to the best of  
3 Ferguson's recollection, the Court did not rule on it.  
4 Instead, the Court affirmed the WSBA Disciplinary Board's  
5 90-day suspension on February 3, 2011 in a scathing  
6 published opinion which destroyed Ferguson's professional  
7 reputation and has continued to harm her in her law  
8 practice and her clients' cases. The damaging statements  
9 in the Court's published opinion were not warranted or  
10 supported by evidence in the record of the disciplinary  
11 case, but appeared to be based on untruthful  
12 communications by WSBA officials with certain members of  
13 the Court. In addition, the published opinion excoriated  
14 Ferguson for filing a grievance against the white male  
15 WSBA member, Owens, even though the uncontroverted  
16 evidence substantiated his ethics violations and the  
17 merits of her grievance. This portion of the opinion  
18 also appeared to be based on WSBA officials' untruthful  
19 or misleading communications with certain members of the  
20 Court.  
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25 39. The second time the WSBA acted adversely based on  
26 a grievance filed against Ferguson by another white male  
27 WSBA member was when, on December 4, 2015, the WSBA  
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1 received a submission from an anonymous source. The  
2 submission was Ferguson's own declaration, recently filed  
3 in support of a continuance in a lawsuit she had filed  
4 against her former attorney, Brian Waid (a white male  
5 WSBA member). The anonymous submission contained no  
6 allegation about Ms. Ferguson's professional conduct as  
7 part, only the declaration and a print-out of a WSBA  
8 website page showing Ferguson's profile. But, based on  
9 the anonymous submission, the WSBA launched an  
10 investigation into Ms. Ferguson's "capacity" to continue  
11 to engage in the practice law. In response to the  
12 anonymous submission, Ferguson informed the WSBA of her  
13 reason to believe that the anonymous filer was Brian Waid  
14 or someone acting on his behalf, and that by filing an  
15 anonymous "grievance", Waid was hoping to burden her with  
16 the need to defend her right to practice law, while the  
17 litigation between them was pending. Ferguson also  
18 expressed her concern to WSBA officials that Waid was  
19 abusing the disciplinary system. The WSBA continued to  
20 target and investigate Ferguson. This investigation into  
21 Ferguson's "capacity" was still active when the next  
22 (third) grievance was filed against Ferguson by a white  
23 male WSBA member.  
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1           40.           The third time Ferguson was the subject of a  
2           grievance by a white male WSBA member was on March 1,  
3           2016, when Defendant Waid filed a grievance against her.  
4           This third grievance was not anonymous, but was in the  
5           form of a 26-page letter dated March 1, 2016 and signed  
6           by Waid. Shortly thereafter, the WSBA dropped the  
7           investigation triggered by the anonymous filing, but  
8           proceeded with an investigation of Waid's new grievance.  
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10           41.           In letters Waid wrote to the WSBA over many  
11           months, he repeatedly urged the WSBA to immediately  
12           investigate and disbar Ferguson before her pending civil  
13           lawsuit against him could be resolved on the merits.  
14           Waid also complained to the WSBA that Ferguson published  
15           negative statements about him and his conduct as her  
16           attorney and Oppe's attorney, on a website called "AVVO".  
17           Waid repeatedly stated that he did not initiate the  
18           grievance against Ferguson which was filed on March 1,  
19           2016, but was told to file it by WSBA officials.  
20           Therefore, he "went along with" this proposal.  
21

22           42.           In her responses to Waid's letters, Ferguson  
23           informed the WSBA of Waid's ethics violations as her  
24           lawyer, and of his similar ethics violations while  
25           representing another former client, Angela Oppe, who also  
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1 had filed a lawsuit against Waid for defrauding her of  
2 hundreds of thousands of dollars. Ferguson also provided  
3 the WSBA with material portions of the record of evidence  
4 from both her civil case and Oppe's civil case,  
5 substantiating these allegations about Waid.  
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7 43. Ferguson did not immediately file a formal bar  
8 grievance against Waid, in part, because she believed it  
9 would be futile to do so, given Waid's status as a white  
10 male WSBA member and her less favorable status as a  
11 female minority WSBA member, but also she did not file  
12 the grievance against Waid because she had previously  
13 been subject to public censure by the Washington Supreme  
14 Court for filing a grievance against a white male WSBA  
15 member (Owens in 2005).  
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18 44. The WSBA did not act on the information and  
19 evidence it received from Ferguson regarding Waid's  
20 ethics violations, but continued to investigate Ferguson.  
21 Ferguson repeatedly requested that the investigation into  
22 Waid's grievance be dismissed as baseless, or at least  
23 deferred until the civil suit was resolved. These  
24 requests were ignored by WSBA officials, and the  
25 investigation of Ferguson, based on Waid's March 1, 2016  
26 grievance letter, continued.  
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1           45.           In early 2017, Ferguson joined a putative class  
2                    action against the WSBA.

3           46.           On May 11, 2017, Ferguson filed a formal  
4                    grievance against Waid with the WSBA's Office of  
5                    Disciplinary Counsel. The subject of this grievance was  
6                    Waid's unethical conduct as her own attorney, and his  
7                    similar unethical conduct as Angela Oppe's attorney.  
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9           47.           Waid responded to Ferguson's grievance by asking  
10                   the WSBA to defer the investigation due to the pending  
11                   civil lawsuit between Ferguson and Waid. At this time,  
12                   Oppe's lawsuit was no longer pending, but had been  
13                   settled. In contrast to the WSBA's previous refusals of  
14                   Ferguson's requests to defer the investigation for the  
15                   same reason, the WSBA promptly agreed to defer its  
16                   investigation against Waid. In order to create the false  
17                   appearance of fairness and equal treatment of both WSBA  
18                   members, both investigations into the grievances by Waid  
19                   and Ferguson were deferred.  
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22           48.           Ferguson appealed the WSBA's decision. She asked  
23                   that the grievance against her, which had placed her  
24                   under investigation for the past 15 months, be  
25                   immediately dismissed. She asked that the grievance  
26                   against Waid be investigated on the basis that to delay  
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1 an investigation and disciplinary action would endanger  
2 the public, given Waid's evident pattern and practice of  
3 serious ethics violations which harmed his clients.  
4 Ferguson's appeal and request for relief was denied by  
5 the WSBA without explanation.  
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7 49. In this lawsuit, Ferguson alleges that Defendant  
8 Waid, jointly with WSBA officials, has targeted her for  
9 adverse action based on her gender and/or race and in  
10 retaliation for protected activity (defending herself in  
11 the prior disciplinary action, suing Waid for his conduct  
12 as her attorney, and publishing truthful statements about  
13 Waid's conduct as her attorney). Ferguson alleges that  
14 the WSBA, with the help of Waid, is engaged in ongoing  
15 and continuing unlawful conduct of taking taken adverse  
16 actions against her based on meritless grievances filed  
17 by white male WSBA members, while refusing to investigate  
18 or take action against these same white male members  
19 engaging in serious ethics violations. She further  
20 alleges that this disparate treatment is based on race  
21 and gender, and violates her rights to due process, equal  
22 protection, free speech, and equal employment  
23 opportunities under the U.S. Constitution and laws of the  
24 United States.  
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1 50. Due to his March 1, 2016 grievance, Brian Waid  
2 became a willful participant in joint activity with  
3 officials of the Washington State Bar Association  
4 ("WSBA") to deprive Sandra Ferguson of her liberty and  
5 property interests, and right to exercise of free speech,  
6 without due process of law, and in violation of her right  
7 to equal protection, guaranteed under the First, Fifth  
8 and Fourteenth Amendments to the U.S. Constitution, and  
9 in violation of Ferguson's right to equal employment  
10 opportunities regardless of race and gender under Title  
11 VII of the Civil Rights Act, 42 U.S.C. §2000e, *et seq.*

14 **The WSBA Lawyer Discipline System.**

15 51. Disciplinary proceedings are quasi-criminal  
16 proceedings. The targeted attorney is defending liberty  
17 and property interests to pursue her chosen profession  
18 and to earn a livelihood. The Washington Lawyer  
19 Discipline System, as administered by the WSBA, deprives  
20 targeted attorneys of their right to due process and  
21 equal protection guaranteed by the Fifth and Fourteenth  
22 Amendments to the U.S. Constitution. Furthermore, the  
23 WSBA subjects female and minority WSBA members to  
24 disparate treatment based on their protected class. This  
25 all is due to the lack of separation or independence of  
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1 the disciplinary system from the WSBA. It is also the  
2 result of an absence of mandatory rules to which WSBA  
3 officials are held. It is due to the unfettered  
4 discretion of individual officials to make arbitrary  
5 decisions affecting the rights of individual attorneys  
6 who subject to the WSBA's disciplinary authority and are  
7 in the system. The foregoing conditions result in a  
8 lawyer discipline system which is infused with "cronyism"  
9 and is biased against minorities and females WSBA  
10 members, while favoring and protecting white male WSBA  
11 members even when they engage in unscrupulous practices  
12 and serious ethics violations, thereby, harming the  
13 public which is supposed to be protected by the WSBA's  
14 lawyer discipline system.

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18 52. The Washington Supreme Court ("the Court") has  
19 promulgated facially-neutral rules, titled "Enforcement  
20 of Lawyer Conduct", which govern the lawyer discipline  
21 system. In these rules, the Court declares exclusive and  
22 inherent authority over the discipline system. But, as a  
23 practical matter, the system is controlled by the WSBA.  
24 The individuals responsible for administering the system  
25 are all part of "the WSBA", including the Board of  
26 Governors, its various committees and subcommittees, the  
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1 Disciplinary Board and its various committees and  
2 subcommittees, the Office of Disciplinary Counsel  
3 lawyers, investigators and staff, and hearing officers.  
4 These individuals who make up "the WSBA" have unfettered  
5 discretion, from the initial decision of whether or not  
6 to investigate a grievance against a particular member-  
7 attorney (or to investigate a member-attorney where no  
8 grievance has been filed); to determine the nature and  
9 scope of an investigation of a member-attorney once it is  
10 undertaken; to determining whether a particular member-  
11 attorney will be charged or not, and if so, what those  
12 charges will be; to determining whether an offer to  
13 settle before trial will be made to the targeted  
14 attorney; to deciding whether charges against a  
15 particular attorney will be referred to the "deferral  
16 program" and thereafter, dismissed without becoming  
17 public; to deciding whether to order a matter to hearing,  
18 and what sanctions will be sought against an attorney who  
19 is charged.

20  
21  
22  
23  
24 **The ABA Committee Reports.**

25 53. For 25 years, the Washington Supreme Court and  
26 WSBA officials have known or had reason to know that the  
27 Washington Lawyer Discipline System deprives targeted  
28

1 WSBA members of their constitutional rights. Despite  
2 this knowledge, they have failed to make the changes  
3 recommended by the American Bar Association, as necessary  
4 to protect WSBA members and the public.  
5

6 54. In 1993, and again in 2006, the American Bar  
7 Association's Standing Committee on Professional  
8 Discipline ("the ABA Committee") reviewed and evaluated  
9 the Washington's Lawyer Discipline System. In 1993, and  
10 again in 2006, the ABA Committee issued a report  
11 identifying structural problems with the system and  
12 warned that these problems placed attorney-members and  
13 the public at risk. These reports made specific  
14 recommendations for structural changes to the system to  
15 protect WSBA members and the public.  
16  
17

18 55. The most serious structural problem that was  
19 identified by the ABA Committee as placing member-  
20 attorneys and the public at risk, was the WSBA's *de facto*  
21 control over the lawyer discipline system. The 2006  
22 Report of the ABA Committee finds that this problem  
23 (previously identified in the 1993 ABA Report) continues  
24 unabated. The same Report specifically recommends as a  
25 remedy the creation of an independent body to oversee and  
26 administer the lawyer discipline system (instead of the  
27  
28

1 WSBA). The Report suggests that the only way to protect  
2 WSBA members and the public is to have an independent,  
3 impartial, and effective lawyer discipline system which  
4 requires divesting the WSBA of its control over the  
5 system.  
6

7 56. Intentionally, or in reckless disregard of the  
8 constitutional and statutory rights of Ferguson and other  
9 similarly-situated WSBA members, the Court and the WSBA  
10 have rejected the ABA Committee's recommendation to  
11 create an independent body (instead of the WSBA) to  
12 administer and operate the Washington Lawyer Discipline  
13 System.  
14

15 57. The WSBA is traditionally or historically an  
16 organization governed by white male members of the WSBA.  
17 The WSBA has not emerged from this tradition or history  
18 into the 21<sup>st</sup> century. The organization of WSBA governors  
19 seek to maintain the status quo and present to the public  
20 an image that will allow the profession to continue to  
21 police or regulate itself, without interference by an  
22 independent body that would mete out discipline  
23 impartially, regardless of race, gender, national origin,  
24 or one's influence or connections to WSBA governors or  
25 their cronies. In order to project this image, to  
26  
27  
28

1 maintain the self-policing system, certain members of the  
2 profession must be sacrificed to the "system", which  
3 results in those who lack power within the WSBA and are  
4 not "cronies" (i.e., females and minorities), so that  
5 white male members of the profession who are well-  
6 connected, can engage in ethics violations with relative  
7 impunity.  
8

9 58. To perpetuate and preserve this system which  
10 favors white males in positions of power within the WSBA,  
11 the Washington Supreme Court and WSBA have acted in bad  
12 faith, by endeavoring to mislead WSBA members and the  
13 public, engaging in an elaborate pretense of taking steps  
14 to change the system, while in fact, avoiding or  
15 obstructing the one meaningful reform (i.e., removal of  
16 the system from the control of the WSBA).  
17  
18

19 59. The evidence of the Court's and the WSBA's  
20 efforts to mislead WSBA members and the public is the  
21 "REPORT OF THE WASHINGTON STATE BAR ASSOCIATION BOARD OF  
22 GOVERNORS DISCIPLINE COMMITTEE" (dated September 19,  
23 2008). This report, issued by the WSBA's Board of  
24 Governors, was the WSBA's feigned and ineffectual  
25 response to the Committee's "WASHINGTON STATE Report on  
26 the Lawyer Regulation System" issued by the ABA Committee  
27  
28

1 in August 2006. The ABA Committee's 2006 Report is  
2 attached hereto and incorporated by reference herein as  
3 Exhibit B. The WSBA's 2008 Report is attached hereto and  
4 incorporated by reference herein as Exhibit C.

5  
6 60. The WSBA is a state licensing agency funded by  
7 the compulsory dues of its membership. The WSBA is also  
8 supposed to be a professional association which  
9 represents the interests of its attorneys-members,  
10 regardless of race, gender, national origin, color, and  
11 affiliations. But, the WSBA has traditionally been  
12 governed by white males and as a result, its disciplinary  
13 system is rife with cronyism and the result is that it  
14 biased against female and minority members. In the WSBA-  
15 controlled disciplinary system, women and minority  
16 members of the WSBA are subject to disparate and less  
17 favorable treatment than white male members of the WSBA.  
18 Ferguson has experienced this discrimination and been  
19 harmed by it. Ferguson continues to be harmed by it, due  
20 to Defendant Waid's willful participation in joint  
21 activity with the WSBA to target her for discipline and  
22 deprive her of her right to practice law without  
23 harassment.

24  
25  
26  
27 **The WSBA's Adjudication Phase.**  
28

1           61.           The disciplinary hearing of an attorney accused  
2           of professional misconduct is a quasi-criminal  
3           proceeding. However, targeted attorneys under the  
4           Washington system are deprived of their constitutional  
5           right to a fair and impartial hearing. The hearing  
6           officers who decide disciplinary cases *brought* by the  
7           WSBA, are *appointed* by the WSBA and subject to *discharge*  
8           by the WSBA without cause. The hearing officers are not  
9           impartial fact-finders. They are WSBA members serving in  
10          their posts at the pleasure of the WSBA. Such a system  
11          deprives targeted attorneys of their right to an  
12          impartial hearing and due process.

13           **The WSBA's Appellate Phase.**

14           62.           Assuming *arguendo*, that the hearing officers were  
15          neutral, impartial fact-finders, the system provides for  
16          automatic review by the Disciplinary Board. The  
17          Disciplinary Board has discretion to modify or reverse  
18          the hearing officer's findings and conclusions, and the  
19          sanctions imposed. For example, in Ferguson's prior  
20          disciplinary proceeding, the 2008 hearing was presided  
21          over by a WSBA officer who imposed a 30-day suspension,  
22          but the Disciplinary Board increased the suspension to 90  
23          days. On information and belief, the hearing officer's

1 written findings and conclusions are frequently prepared  
2 with the input or "help" of WSBA lawyers.

3 **V. FIRST CAUSE OF ACTION--FIRST CLAIM**

4 **Deprivation of Right to Due Process of Law**  
5 **Fourteenth Amendment to U.S. Constitution**

6 63. Plaintiff realleges and incorporates the  
7 allegations of the preceding paragraphs as if fully set  
8 forth herein.

9  
10 64. Defendant reached an understanding with state bar  
11 officials to file a meritless grievance against Ferguson  
12 and did file said grievance, thereby becoming a willful  
13 participant in joint activity with state officials to  
14 deprive Ferguson of her liberty and property interests to  
15 the pursuit of her chosen profession and to earn a  
16 livelihood in such profession, and to so deprive her  
17 without due process of law and in violation of the  
18 guarantees afforded under the Fifth Amendment to the U.S.  
19 Constitution as applied to the states by the Fourteenth  
20 Amendment to the U.S. Constitution and 42 U.S.C. §1983.  
21  
22  
23

24 **VI. SECOND CAUSE OF ACTION--SECOND CLAIM**

25 **Right to Equal Protection**  
26 **Fourteenth Amendment to the U.S. Constitution**  
27  
28

1           65.           Plaintiff realleges and incorporates the  
2                   allegations of the preceding paragraphs as if fully set  
3                   forth herein.

4  
5           66.           Defendant reached an understanding with state bar  
6                   officials to file a meritless grievance against Ferguson  
7                   and did file said grievance against Ferguson, becoming a  
8                   willful participant in joint activity with state  
9                   officials to deprive Ferguson of her liberty and property  
10                  interests to the pursuit of her chosen profession and to  
11                  earn a livelihood in such profession, and to so deprive  
12                  Ferguson of these interests in violation of her right to  
13                  equal protection under the laws, guaranteed by the Fifth  
14                  Amendment to the U.S. Constitution as applied to the  
15                  states by the Fourteenth Amendment to the U.S.  
16                  Constitution and 42 U.S.C. §1983.

17  
18  
19                   **VI.           THIRD CAUSE OF ACTION-THIRD CLAIM**

20                           **Right to Free Speech**  
21                   **Fourteenth Amendment to the U.S. Constitution**

22  
23           67.           Plaintiff realleges and incorporates the  
24                   allegations of the preceding paragraphs as if fully set  
25                   forth herein.

26           68.           Defendant reached an understanding and is  
27                   willfully participating in joint activity with state  
28



1 officials to deprive Ferguson her right to the exercise  
2 free speech regarding Defendants' conduct as her  
3 attorney, the conduct of WSBA officials, and the  
4 constitutional infirmities of the WSBA-controlled lawyer  
5 discipline system, in the public interest.  
6

7 **VI. FOURTH CAUSE OF ACTION-FOURTH CLAIM**

8 **Right to Equal Employment Opportunities**  
9 **Title VII of the Civil Rights Act, as amended**  
10 **42 U.S.C. §2000 et seq.**

11 69. Plaintiff realleges and incorporates the  
12 allegations of the preceding paragraphs as if fully set  
13 forth herein.

14 70. Defendant reached an understanding with state bar  
15 officials to file a meritless grievance against Ferguson  
16 and did file said grievance against Ferguson, becoming a  
17 willful participant in joint activity with state  
18 officials to deprive Ferguson of her liberty and property  
19 interests to the pursuit of her chosen profession and to  
20 earn a livelihood in such profession, and to so deprive  
21 Ferguson of these interests in violation of her right to  
22 equal employment opportunities regardless of race or  
23 gender, under U.S. law, Title VII of the Civil Rights Act  
24 of 1964, as amended, and is liable therefor, under 42  
25 U.S.C. §1983.  
26  
27  
28

**VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief as follows:

1. For declaratory and injunctive relief as the court deems appropriate.
2. For compensatory damages in an amount to be determined at trial.
3. For punitive damages in an amount to be determined at trial.
4. For an award of attorneys' fees and costs pursuant to 42 U.S.C. 1988.
5. For such further relief as is deemed just and appropriate.

Respectfully submitted this 9<sup>TH</sup> the day of  
November, 2017.

/s/Sandra L. Ferguson  
Sandra L. Ferguson, pro se  
WSBA No. 27472